

In the Matter of)
)
Federal-State Joint Board on Universal Service) WC Docket No. 09-197
)
i-wireless, LLC)
)
)
Petition for Limited Designation as an Eligible)
Telecommunications Carrier in the State of)
Florida)

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SUMMARY

i-wireless, LLC (“i-wireless”) is seeking limited designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Florida pursuant to Section 214(e)(6) of the Communications Act, solely for purposes of offering services supported by the Universal Service Fund’s (“USF”) Low-Income Lifeline program. i-wireless is a Mobile Virtual Network Operator (“MVNO”) that purchases wireless service on a wholesale basis from Sprint Nextel. The Commission may perform ETC designations for entities not subject to the jurisdiction of a state commission, and Florida has provided an affirmative statement that it does not exercise jurisdiction over wireless providers for purposes of ETC designation. Accordingly, pursuant to Section 214(e)(6), the Commission has the necessary authority to designate i-wireless as an ETC in Florida.

i-wireless meets all of the necessary requirements under Section 214(e)(1) for the limited ETC designation requested herein except for the own facilities requirement. Section 214(e)(1)(A) of the Act requires an ETC to offer USF-supported services over its own facilities or a combination of its own facilities and the resale of another carrier’s services. i-wireless was granted forbearance from enforcement of this facilities requirement by the Commission on June 25, 2010 to permit its designation as an ETC. Through its contracts with underlying carriers, i-wireless has the ability to offer all of the services and functionalities supported by the USF and set forth in Section 54.101(a) of the Commission’s rules. i-wireless respectfully requests that the Commission promptly approve the instant request for limited ETC designation to enable i-wireless to rapidly provide Lifeline services to qualifying customers in Florida.

Designating i-wireless as an ETC in Florida will promote the public interest by providing qualifying low-income customers in Florida with lower prices and high-quality wireless services. Many low-income customers in Florida have yet to reap the well-documented benefits of

wireless service because of financial constraints, poor credit history, or intermittent employment. i-wireless' prepaid service offerings are ideally suited to provide these customers with reliable and cost-effective wireless services. As an ETC, i-wireless will be able to provide discounted and affordable services to these consumers who are among the intended beneficiaries of USF support. i-wireless' designation will specifically serve the public interest because of the aggressive pricing plans that i-wireless will provide (see Exhibit A) and because of i-wireless' unique distribution channels via relationships with small retail stores in low-income neighborhoods that will permit customers to refill minutes without traveling outside their neighborhoods or using a computer.

ETC designation for Lifeline service is consistent with precedent and will serve the public interest, and should be granted without delay.

**Before the
Federal Communications Commission
Washington, DC 20554**

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**PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER IN THE STATE OF FLORIDA**

I. INTRODUCTION

i-wireless, LLC (“i-wireless”), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (“Act”), and Section 54.201 of the rules of the Federal Communications Commission (“FCC” or “Commission”), hereby requests limited designation as an eligible telecommunications carrier (“ETC”) in the State of Florida. i-wireless seeks ETC designation in Florida only for purposes of participation in the Universal Service Fund’s (“USF”) Low-Income Lifeline program and does *not* seek to participate in the High-Cost support program. i-wireless currently has a petition for limited designation as an ETC in the States of Alabama, Connecticut, Delaware, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia (collectively the “Non-Jurisdictional States”) pending with the FCC.

Since the Florida Public Service Commission lacks jurisdiction to consider i-wireless’ request for designation as an ETC, the Commission, under Section 214(e)(6) of the Act, has the

necessary jurisdictional authority to consider and grant this request.¹ As more fully described below, i-wireless satisfies the requirements for designation as an ETC in Florida and will offer all of the services and functionalities supported by the universal service program throughout its designated service areas in Florida. Grant of i-wireless' request, therefore, will promote the public interest by providing customers in Florida with lower prices and higher quality wireless services through innovative distribution channels.

II. BACKGROUND

A. i-wireless Overview

i-wireless provides prepaid wireless telecommunications services to consumers by using the Sprint Nextel ("Sprint") network on a wholesale basis to offer nationwide service. Sprint is a nationwide carrier that provides wholesale capacity on its wireless network to wireless resellers like i-wireless. Pursuant to an existing agreement, i-wireless obtains from Sprint the network infrastructure and wireless transmission facilities to allow i-wireless to operate as a Mobile Virtual Network Operator ("MVNO"), similar to TracFone and Virgin Mobile, both of whom have been granted ETC status by the Commission.²

Prepaid wireless services that are affordable and easy to use are attractive to low-income and lower-volume consumers, providing them with access to emergency services and a reliable

¹ See 47 U.S.C. § 214(e)(6).

² *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc., Petitions for Designation in the States of Alabama, Connecticut, Delaware, Florida, North Carolina, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, Virginia, and Washington D.C.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008) ("TracFone ETC Order"); *Petition of Virgin Mobile USA, L.P. for Forbearance from 47 U.C.S. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) ("Virgin Mobile Order"). The Commission had previously granted TracFone forbearance from the facilities requirement for ETC designation, permitting TracFone to offer the supported services via resale only. *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) ("TracFone Forbearance Order"). The *Virgin Mobile Order* contained both the forbearance analysis and ETC designation.

means of communication that can be used both at home and while traveling to remain in touch with friends and family and for contacting prospective employers. i-wireless offers consumers simple and affordable prepaid calling plans, a variety of prepaid service plans, easy-to-use handsets and high-quality customer service. Given its pricing and marketing strategy and the demographics of other, similar MVNOs' customers, i-wireless anticipates that many of its customers will be from low-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. i-wireless will not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service. i-wireless will allow customers to choose a prepaid plan in which they are charged only for the minutes they use.

By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or were previously ignored by traditional carriers, i-wireless will expand the availability of wireless services to many more consumers, which is the principal reason that Congress created the universal service program.

B. i-wireless' Lifeline Offering

i-wireless will provide Lifeline service under the brand name "Access Wireless." The Company's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other i-wireless prepaid customers, with one notable exception: prepaid Lifeline services will be free of charge. As Exhibit A demonstrates, i-wireless' Lifeline service offering proposes to give eligible customers three (3) Lifeline Plan choices:

1. 150 Anytime Minutes Plan. Under the 150 Anytime Minute Plan, eligible customers enjoy a free handset, 150 anytime minutes, rollover minutes, free incoming text messages, and free customer care calls.

2. 250 Anytime Minutes Plan. Under this Plan, eligible customers receive a free handset and 250 anytime minutes. Customers will not qualify for the perks listed above, forgoing these for the higher level of minutes.
3. \$15 Retail Discount Plan. The third option allows Lifeline eligible customers to choose from any i-wireless monthly retail plan³ at a \$15 discount. Under this \$15 Retail Discount Plan, a customer can, for example, pay \$10 additional per month and receive 200 anytime minutes, unlimited text messaging and 200 megabytes of data, plus all of the perks listed under the 150 minute plan.

Customers can change their plan on their monthly plan date, without penalty, should they determine that another plan better meets their needs or if their needs change. i-wireless does not impose burdensome credit checks, long-term service contracts, or roaming charges. Furthermore, i-wireless does not assess charges for activation or connection of service, and the 150 and 250 minute plans include all applicable taxes and fees. Minutes are credited to a customer's account at the beginning of every 30-day cycle, which is initiated on their Lifeline activation date. A customer's handset does not have to be "on" to receive minutes, as i-wireless' operations are system-based, not handset-based. Customers may place calls to 911 for free, regardless of account balance or activation status.

Lifeline customers will receive an E911-compliant wireless handset at no charge, and i-wireless intends that all handsets will be data-capable, high quality refurbished phones. i-wireless' market research of the Lifeline-eligible consumer suggests that they prefer a feature-rich, high-end refurbished phone to a new phone that has less to offer. These phones come with

³ Except a Text Only Plan.

a one year manufacturer warranty, and may be replaced at no charge upon handset malfunction.⁴ With data-capable phones, i-wireless customers are able to interface with online customer service and check the balance of their minutes for free at anytime, regardless of their service plan.

In addition to free voice services, prepaid Lifeline customers also will have access to voice mail, caller I.D. and call waiting services at no additional charge, even after their initial allotment of free minutes has been consumed. Customers are not bound by a local calling area requirement; all i-wireless plans come with domestic long distance at no extra charge and exceptional nationwide digital coverage on the Nationwide Sprint PCS Network. Unlike many carriers, i-wireless does not decrement minutes for incoming text messages, balance inquiries, or calls placed to customer service, and unused minutes carry over to the following month.⁵ i-wireless Lifeline customers will have access to the same exceptional customer care provided to retail customers. The Company contracts with a high quality, U.S. domestic customer care group whose hold time is among the lowest in the prepaid wireless industry. Therefore the benefits with i-wireless in regards to customer service are three-fold: service standards are high, wait times are low, and minutes of use do not count against a customer's account balance.

Furthermore, through i-wireless' partnership with The Kroger Co. ("Kroger")⁶, the nation's largest grocery retail chain and the second largest retailer overall, low-income consumers are able to purchase additional airtime cards⁷ at local stores in neighborhoods where

⁴ Handsets may be replaced for a nominal fee if the customer is at fault.

⁵ These "perks" are not available on the 250-minute plan, as outlined in Exhibit A.

⁶ The Kroger Co. has a 50% ownership interest in i-wireless.

⁷ Airtime cards are sold in denominations of \$10, \$20 and \$50. Additional airtime may also be purchased over the phone (by calling the IVR or through customer care interface) or online. i-wireless sends low and depleted balance (continued on next page)

many Lifeline-eligible customers reside. i-wireless has existing relationships with over 2,200 such Kroger retailers across the United States and has plans to expand this reach. Currently, i-wireless has partnerships with 99 Kroger-owned stores in Florida (branded “Tom Thumb”). This innovative distribution model is more practical and convenient for potential Lifeline customers than other mechanisms, because it allows customers to obtain minutes without the expense and trouble of traveling to retail locations outside their neighborhoods or to having access to a computer to go online. i-wireless’ distribution arrangement will therefore advance the Commission’s goals of increasing awareness of and participation in the Lifeline program.

C. Plan Enrollment

Customers interested in obtaining information on the Lifeline program will be directed to a toll-free telephone number and to i-wireless’ Access Wireless website, which will contain information regarding the Company’s Lifeline service plan, including a detailed description of the program and state-specific eligibility criteria. Customers may then request that a Lifeline enrollment form be mailed to them, or they can download a form from the internet. Applicants must complete the enrollment form, which will include a place where applicants must attest and certify under penalty of perjury that they satisfy the requisite eligibility criteria (program or income based). In addition, each applicant is required to certify under penalty of perjury, at the time of application and annually thereafter, that they are head of their household and receive Lifeline-supported service only from i-wireless. The applicant must return the signed enrollment form and all supporting documentation to the address provided by i-wireless. Processing of consumers’ applications, including review of all application forms and relevant documentation, will

alerts in the form of a free text message to the customer, and also alerts the customer through a free text message when minutes have been added to their account.

be performed under i-wireless' supervision by managers experienced in the administration of the Lifeline program.

i-wireless has implemented measures to reduce the possibility of signing up a customer for the Company's Lifeline service who already has Lifeline service with another provider. i-wireless' business model is such that the Company has "live" contact with the majority of its Lifeline customers, whether over the phone or in person. For these situations, i-wireless has specifically designed its in-take communications at sign-up (call center script, sales training document/checklist for use by customer service representatives) to highlight that Lifeline is available only on a one-per-household basis. In addition, i-wireless has designed its collateral (advertising via literature and web) and customer applications such that they reinforce the limitation of one Lifeline phone per head-of-household during the customer education/information cycle. For example, the following language will be placed conspicuously to ensure it is not overlooked: **"Note: By law, the Lifeline program is only available for one phone per household."** i-wireless has designed the disclosure statement on its applications to better ensure that customers read and review the statements to which they are attesting, including initialing each statement:

Disclosure Statement: By signing below, I certify under penalty of perjury – (additionally, please initial each of the 4 statements below)

1. The information contained within this application is true and correct. I acknowledge that providing false or fraudulent documentation in order to receive assistance is punishable by law.

2. I understand that Lifeline is only available for one landline or wireless phone line per household. I am the head of household and will only receive Lifeline from Access Wireless.

3. Furthermore, I certify that I will only use this phone for my family's own use and will not resell it. _____

4. I will notify Access Wireless immediately if I no longer qualify for Lifeline, or if I have a question as to whether would still qualify. _____

D. Prevention of Waste, Fraud and Abuse

i-wireless recognizes the importance of safeguarding the USF. Therefore, the Company has implemented the following 60-day non-usage policy in an effort to avoid waste, fraud, and abuse of the program. If no usage appears on an i-wireless Lifeline customer's account during any continuous 60-day period, i-wireless will promptly notify the customer that the customer is no longer eligible for i-wireless Lifeline service subject to a 30-day grace period. During the 30-day grace period, the customer's account will remain active, but i-wireless will engage in outreach efforts to determine whether the customer desires to remain on the Company's Lifeline service. If the customer's account does not show any customer-specific activity during the grace period, i-wireless will promptly deactivate Lifeline services and cease to seek reimbursement from the USF for that customer. Customers that have been deactivated may participate in the Company's Lifeline service in the future by reapplying and re-establishing eligibility. Furthermore, i-wireless will:

- Provide state commissions (PUC) with data that will enable the states to track whether some consumers are enrolled in more than one Lifeline program. Specifically, i-wireless agrees to make available state-specific customer data, including name and address, to each state PUC where it operates for the purpose of permitting the PUC to determine whether an existing Lifeline customer receives Lifeline service from another carrier;
- Promptly investigate any notification that it receives from a state PUC that one of its customers already receives Lifeline service from another carrier; and
- Immediately deactivate a customer's Lifeline service and no longer report that customer on USAC Form 497 if i-wireless' investigation concludes that the customer receives Lifeline services from another carrier in violation of the Commission's regulations.

i-wireless believes that the first line of defense against fraud and abuse is to partner with high quality channels and organizations. By emphasizing the social benefits of the program and partnering with those focused on the benefits to their constituents, the Company believes that it can avoid potential misuse of the program. To further protect the integrity of the USF, i-wireless

has contracted with: (a) Solix, a well-known, experienced and reputable firm in the USF industry, to assist in reviewing customer applications and verifying eligibility, and to ensure that i-wireless is in compliance with federal and state regulations at all times; and (b) CGM, LLC of Roswell, Georgia, a lifeline service bureau, to edit all subsidy request data. CGM will process and validate i-wireless' subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from i-wireless will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described above, i-wireless ensures that it does not over-request from support funds.

E. Lifeline Program

Universal service has been a fundamental component of U.S. telecommunications policy since adoption of the Act over 70 years ago. Section 254 of the Act embodies the Commission's historical commitment to the concept of universal service, particularly for low-income consumers. Section 254(b) sets forth the principles upon which the Commission shall base its policies for the promotion and advancement of universal service. These principles require the Commission to ensure that all consumers, including low-income consumers, have access to telecommunications services at affordable and reasonably comparable rates.⁸ The Low-Income program was designed to assist low-income individuals obtain quality telecommunications services through the Lifeline and Link-Up programs.⁹ Lifeline support helps defray the monthly costs of telecommunications

⁸ See 47 U.S.C. § 254. Section 254(b)(3) of the Act requires the Commission to determine whether "consumers in all regions of the Nation, *including low-income consumers* and those in rural, insular, and high cost areas...have access to telecommunications [services] ..." 47 U.S.C. § 254(b)(3) (emphasis added).

⁹ 47 C.F.R. §§ 54.401 and 54.411.

services for low-income consumers by providing them with discounts off the monthly cost of telephone service.¹⁰

While generally praising the Low-Income program's success, the Commission has noted that "there is more that we can do to make telephone service affordable for more low-income households," and has specifically targeted the low Lifeline participation rate as one area for improvement.¹¹ Commission concerns regarding the underutilization of the Lifeline program have existed since its inception.¹² According to the most recent estimates issued by the USAC in 2010, only between 20-50% of consumers eligible for Lifeline Services in the State of Florida were being provided such services.¹³ To increase awareness of the program, the Commission has expanded the qualifying criteria and adopted broader outreach guidelines, requiring carriers to better advertise the availability of Lifeline services. Through these actions, the Commission has sought to increase Lifeline participation because "improve[d] participation in the Lifeline program...would increase telephone subscribership and/or make rates more affordable for low-income households."¹⁴

¹⁰ 47 C.F.R. §§ 54.400 and 54.401.

¹¹ See *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8305 ¶ 1 (2004) ("*Lifeline Order*"). According to the Commission's own statistics, only one-third of households eligible for Lifeline assistance actually participated in the program just a few years ago. *Id.*

¹² See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8972 ¶ 370 (1997) (subsequent history omitted) ("*Universal Service First Report and Order*").

¹³ Information available at: <http://www.usac.org/li/about/participation-rate-information.aspx>.

¹⁴ See *Lifeline Order*, 19 FCC Rcd at 8312 ¶ 13.

III. THE COMMISSION HAS AUTHORITY TO PERFORM THE ETC DESIGNATION

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific universal service support.”¹⁵ The Act reserves the authority to designate entities as ETCs to state public utility commissions (“PUCs”). Pursuant to Section 214(e)(6), however, the Commission may designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission.”¹⁶ The Commission has established that a carrier must demonstrate that it “is not subject to the jurisdiction of a state commission” before it may consider an application for ETC designation.¹⁷ The Commission also has stated that any carrier seeking ETC designation from it must provide the Commission with an “affirmative statement” from the state PUC that it lacks jurisdiction to perform the ETC designation.”¹⁸

a) The Florida Public Service Commission has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless’ ETC petition. The letter is attached as Exhibit B.

Accordingly, for the State of Florida, i-wireless requests that the Commission exercise its authority under Section 214(e)(6) and determine that i-wireless is “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”¹⁹

¹⁵ 47 U.S.C. § 254(e).

¹⁶ See 47 U.S.C. § 214(e)(6).

¹⁷ See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

¹⁸ See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 ¶ 113 (2000).

¹⁹ 47 U.S.C. § 214(e)(6).

IV. I-WIRELESS REQUESTS ETC DESIGNATION IN ITS SERVICE AREA FOR PARTICIPATION IN THE LIFELINE PROGRAM

A. i-wireless Requests ETC Designation in its Existing Service Area

Consistent with prior orders granting other MVNOs ETC status,²⁰ i-wireless requests ETC designation for its entire service area in Florida (i.e., the area served by its underlying carrier(s)). i-wireless understands that its service area overlaps with several rural carriers' service areas but maintains that the public interest factors described below justify its designation in these service areas, especially since it only seeks ETC designation for purposes of participation in the Lifeline program.

B. i-wireless' Limited ETC Designation Request Only Seeks Authority to Participate in the Lifeline Program

i-wireless requests ETC designation in Florida for the sole purpose of participating in the Lifeline program. i-wireless does not seek eligibility to receive support from the High Cost support program. As demonstrated herein, the instant request to participate in the Lifeline program is consistent with the Commission's requirements for ETC designation, and would promote the goals of universal service by offering the many benefits of supported services to low-income customers in Florida. As discussed above, i-wireless' Lifeline offerings will include many features specifically designed for qualifying low-income customers, who currently lack appealing and affordable options for wireless services, many of whom are therefore unable to subscribe to wireless services.

C. The Limited Designation Request is Consistent with Recent Precedent

i-wireless' request for designation to participate in the Lifeline program is consistent with the Commission's recent decisions conditionally designating TracFone Wireless and Virgin

²⁰ See *TracFone ETC Order* and *Virgin Mobile Order*, *supra* note 2.

Mobile as ETCs in several states.²¹ In its decisions, the Commission determined that the requests of TracFone and Virgin Mobile satisfied all of the necessary eligibility requirements and that designation would serve the public interest.²² The Commission specifically noted in the *TracFone* and *Virgin Mobile Orders* that designation of prepaid wireless providers as ETCs will provide a variety of benefits to low-income consumers, including increased consumer choice, high-quality service offerings and mobile access to emergency services on wireless devices.²³

i-wireless requests that the Commission expeditiously process its pending ETC petitions, along with this petition. The State of Florida, due to a recent law change, does not have jurisdiction over wireless ETC, therefore, i-wireless respectfully requests that this petition is granted expeditious treatment, since it is substantively the same as its previously filed petition for ETC Designation in the Non-Jurisdictional States set forth above. i-wireless requests expedited treatment so that it can quickly join TracFone and Virgin Mobile in providing qualifying low-income customers with affordable USF-supported wireless services, which is clearly in the public interest. Designation of prepaid wireless providers such as TracFone, Virgin Mobile and i-wireless as ETCs is a significant step towards ensuring that all customers, particularly low-income customers, share in the many benefits associated with access to affordable wireless telecommunications services. During an economic downturn, many existing wireless customers have to forego wireless services because they can no longer afford them. Designation of ETC status to i-wireless should help to close the widening gap for wireless services and provide low-income customers with the significant advantages associated with

²¹ See *supra* note 2.

²² See *TracFone ETC Order*, 23 FCC Rcd at 6212-13 ¶ 15; *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

²³ See *Id.*

access to wireless services. As noted in a study sponsored by the Massachusetts Institute of Technology's Legatum Center for Development and Entrepreneurship and New Millennium Research Council, low-income customers receive significant economic and social benefits from wireless services, including enhanced productivity, increased economic opportunity, and broader access to emergency and safety services.²⁴

V. I-WIRELESS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

Section 214(e)(1) of the Act and Section 54.201(d) of the Commission's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier's services. Applicants also must commit to advertise the availability and rates of such services.²⁵ As detailed below, i-wireless satisfies each of the above-listed requirements.

A. i-wireless is a Common Carrier

CMRS resellers like i-wireless are treated as common carriers for regulatory purposes.²⁶

²⁴ Nicholas P. Sullivan, New Millennium Research, *Cell Phones Provide Significant Economic Gains for Low-Income American Households: A Review of Literature and Data from Two New Surveys*, (April 2008), available at http://newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf.

²⁵ See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

²⁶ *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory "mobile services" category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) ("mobile services" providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) ("We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services and resellers of such services.") (emphasis added).

B. i-wireless Will Provide the Supported Services Through Resale

As described above, i-wireless purchases wireless network services on a wholesale basis from Sprint. On April 1, 2009, i-wireless filed a Petition for Forbearance from application of Section 214(e)(1)(A) of the Act that requires ETCs to offer USF-supported services either using their own facilities or a combination of their own facilities and the resale of another carrier's services. In an Order effective June 25, 2010, the FCC granted i-wireless' petition for forbearance for purposes of participating in the Lifeline program.²⁷ In the *i-wireless Forbearance Order*, the FCC concluded that forbearance from the facilities-based provision would benefit customers, "given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer's only connection to the public switched telephone network."²⁸ The Commission further explained that "requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program."²⁹ Therefore, i-wireless is eligible to be designated as an ETC for purposes of participation in the Universal Service Fund's ("USF") Lifeline program.

The FCC specifically conditioned its grant of forbearance on i-wireless as follows:

(a) i-wireless providing its Lifeline customers with basic 911 and enhanced 911 ("E911") access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its new Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; (d) i-wireless obtaining a certification from each Public Service Answering Point ("PSAP") where i-wireless seeks to provide Lifeline service confirming that i-wireless provides its customers with 911 and E911 access or

²⁷ *Petition of i-wireless, LLC, for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, Order, FCC 10-117 (rel. June 25, 2010), (*i-wireless Forbearance Order*). A copy of the *i-wireless Forbearance Order* is attached hereto as Exhibit C.

²⁸ *i-wireless Forbearance Order* ¶ 11.

²⁹ *Id.* ¶ 15.

self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple i-wireless Lifeline subsidies at the same address, and (g) i-wireless dealing directly with the customer to certify and verify the customer's Lifeline eligibility. The FCC required i-wireless to submit a plan describing the measures it would take to implement each of these conditions.³⁰

In accordance with the *i-wireless Forbearance Order*, i-wireless filed its compliance plan with the FCC on July 26, 2010. In that compliance plan, i-wireless described how it would comply with each of the FCC's stated conditions. A copy of its compliance plan is attached to this Petition as Exhibit D. i-wireless has subsequently incorporated in its compliance plan the voluntary commitments detailed in section II.C-D herein designed to prevent waste, fraud and abuse of the Commission's low-income universal service program. Moreover, i-wireless has stressed its willingness to abide by future regulations implemented by the FCC, and to work actively with the Commission to implement industry-wide procedures that will better protect the federal USF mechanisms. i-wireless commits to providing Lifeline service in Florida in accordance with the compliance plan.

C. i-wireless Offers All of the Required Services and Functionalities

Through its wholesale arrangement with Sprint, i-wireless is able to provide all of the services and functionalities supported by the universal service program under Section 54.101 of the Commission's rules in Florida. i-wireless will make these services and functionalities available to qualifying Florida customers.

³⁰ See *i-wireless Forbearance Order* ¶ 16.

1. Voice Grade Access to the Public Switched Telephone Network

i-wireless provides voice grade access to the public switched telephone network (“PSTN”) through the purchase of wholesale CMRS services from Sprint. Bandwidth for this voice-grade access is at minimum between 300 and 3,000 MHz as required by the Commission’s rules.³¹

2. Local Usage

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers. The FCC has determined that a carrier satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage.³² i-wireless offers a variety of rate plans that provide its customers with local usage capabilities in the form of monthly plans, unlimited plans or pay-per-use plans.

3. Dual Tone Multi-Frequency Signaling or its Functional Equivalent

i-wireless provides dual tone multi-frequency (“DTMF”) signaling to expedite the transmission of call set up and call detail information throughout the network. All wireless handsets offered for sale by the company are DTMF-capable.

4. Single-Party Service or its Functional Equivalent

“Single-party service” means that only one party will be served by a subscriber loop or access line during a telephone transmission. i-wireless provides single party service to its

³¹ See 47 U.S.C. § 54.101(a)(1).

³² See e.g., *Farmers Cellular, Inc.*, CC Docket No. 96-45, Memorandum Opinion and Order, 18 FCC Rcd 3848, 3852 ¶ 9 (2003); *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, CC Docket No. 96-45, Memorandum Opinion and Order, 17 FCC Rcd 9589, 9593 ¶ 10 (2002); *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, 16 FCC Rcd 48, 52 ¶ 10 (2000).

customers for the duration of each telephone call, and does not provide multi-party (or “party-line”) services.

5. Access to Emergency Services

i-wireless provides nationwide access to 911 and E911 emergency services for all of its customers. i-wireless also complies with the Commission’s regulations governing the deployment and availability of enhanced 911 compatible handsets. As stated previously, i-wireless will provide access to emergency services consistent with the requirements set forth in the *i-wireless Forbearance Order*.³³

6. Access to Operator Services

i-wireless provides all of its customers with access to operator services.

7. Access to Interexchange Services

i-wireless’ service provides its customers with the ability to make interexchange, or long distance, telephone calls. In fact, interexchange calls are included in i-wireless’ service with no additional charge.

8. Access to Directory Assistance

All i-wireless customers are able to dial “411” to reach directory assistance services from their wireless handsets.

9. Toll Limitation for Qualifying Low-Income Consumers

Toll limitation allows customers to block the completion of outgoing long distance calls to prevent them from incurring significant long distance charges and risking disconnection. As described above, i-wireless provides its wireless service on a prepaid, or pay-as-you-go, basis. i-wireless’ service, moreover, is not offered on a distance-sensitive basis and minutes are not

³³ See *i-wireless Forbearance Order* ¶ 11.

charged separately for local or domestic long distance services. Customers also must specifically authorize access for international services, for which additional charges may apply. As the Commission found in the *Virgin Mobile Order*, “the prepaid nature of [a prepaid wireless service provider’s] service offering works as an effective toll control.”³⁴ The nature of i-wireless’ service, therefore, mitigates any concerns that low-income customers will incur significant charges for long distance calls resulting in disconnection of their service.

D. Advertising of Supported Services

i-wireless will broadly advertise the availability and rates for the services described above using media of general distribution as required by Section 54.201(d)(2) of the Commission’s regulations.³⁵ These advertising campaigns will be specifically targeted to reach low-income customers and promoting the availability of cost-effective wireless services to this neglected consumer segment. i-wireless will utilize its network of Kroger-owned stores to help promote the availability of its Lifeline plans. i-wireless will make use of printed advertisements and signage in the 99 Tom Thumb convenience stores throughout the state. Given these existing relationships with low-income consumers, i-wireless expects to be able to inform consumers of the availability of Lifeline service in a manner that will result in significantly higher participation in the Lifeline program by qualified consumers than has been the case in the past.

Though Kroger will be a primary point of contact with consumers and a dynamic source for advertising the Lifeline program, i-wireless will also seek to reach eligible consumers outside of its Kroger footprint. Consumers are not required to visit a Kroger-owned store – they will be made aware of a toll free number and website whereby they can apply for the Company’s

³⁴ See *Virgin Mobile Order*, 24 FCC Red at 3394 ¶ 34.

³⁵ See 47 C.F.R. § 54.201.

Lifeline program. i-wireless intends to advertise its Lifeline service using printed advertisements, billboards and public transit signage. i-wireless will also promote the availability of its Lifeline offerings by distributing brochures at various state and local social service agencies, and intends to partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline services.

VI. DESIGNATION OF I-WIRELESS AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST

A. Goals of the Communications Act

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.³⁶ There is no question that limited designation of i-wireless as an ETC in Florida will promote the public interest by providing low-income consumers in Florida with more affordable and higher quality wireless services. Many low-income consumers have yet to reap the full benefits of the wireless marketplace. Whether because of financial constraints, poor credit or intermittent employment, these consumers often lack access to the benefits that wireless services bring to other consumers.³⁷ Designating i-wireless as an ETC in Florida will enable it to expand the availability of affordable telecommunications services to qualifying consumers, leading to lower prices and increased choice.³⁸

³⁶ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

³⁷ See *supra* note 24.

³⁸ See *TracFone ETC Order*, 23 FCC Rcd at 6212 ¶ 15; *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38; *Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the* (continued on next page)

The instant request for limited ETC designation must be examined in light of the Act's goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating i-wireless as an ETC would significantly benefit low-income consumers eligible for Lifeline services in Florida—the intended beneficiaries of universal service. The company's participation in the Lifeline program also undoubtedly would increase opportunities for the company to serve these customers with appealing and affordable service offerings.

i-wireless' Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. i-wireless' Lifeline rate plans will provide feature-rich mobile connectivity for qualifying subscribers through a variety of rate plans that are comparable in minutes and features to those available to post-paid wireless subscribers – but at low Lifeline rates and without the burden of credit checks, contracts, activation fees or roaming charges. By allowing customers to apply the Lifeline discount to the rate plan that best meets their individual needs, i-wireless truly presents a unique benefit to low-income consumers and establishes itself as a pioneer in the prepaid wireless marketplace.

The proposed i-wireless Lifeline offerings compare favorably with those of other competitive ETCs, but also offer the customer a novel variety of useful options. For example, i-wireless' offer of 150 free minutes is competitive with TracFone's Safelink service of 125 or 250 minutes, given i-wireless does not charge customers for customer care calls or incoming text messages and allows minutes to rollover. Alternatively, customers can put \$25 (approximately

Communications Act of 1934, CC Docket No. 96-61, Second Report and Order, 11 FCC Rcd 20730, 20760 ¶ 52 (1996).

\$27.88 with tax) towards their account and receive unlimited calling. This option compares favorably with Virgin Mobile's Assurance plan whereby customers can add \$20 (plus an undisclosed amount of tax) for 1,000 minutes and 1,000 texts. In addition, customers are offered the flexibility of taking a dollar credit of \$15, in lieu of the minutes, and applying it towards the i-wireless retail plan of their choice.

Most importantly, i-wireless' Lifeline service will provide low-income residents with the convenience and security offered by wireless services—even if their financial position deteriorates. ETC designation in Florida would enable i-wireless to offer appealing and affordable service offerings to low-income customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, prepaid wireless services have become essential for low-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Providing i-wireless with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

In sum, ETC designation in Florida would enable i-wireless to provide all of the public benefits cited by the Commission in its analysis in the *TracFone* and *Virgin Mobile Orders*. Namely, i-wireless would provide “increased consumer choice, high-quality service offerings, and mobility,”³⁹ as well as the safety and security of effective 911 and E911 services.⁴⁰

B. The Benefits of Competitive Choice

The benefits to consumers of being able to choose from among a variety of

³⁹ See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38; *TracFone ETC Order*, 23 FCC Rcd at 6212 ¶ 15.

⁴⁰ See *Virgin Mobile Order*, 24 FCC Rcd at 3391 ¶ 23.

telecommunications service providers have been acknowledged by the FCC for more than three decades.⁴¹ Designation of i-wireless as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, resulting in improved services to consumers. Increasing the competitive marketplace of providers has the potential to effectively increase the penetration rate and reduce the number of individuals not connected to the PSTN. Designation of i-wireless as an ETC will help assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.⁴² Designation of i-wireless as an ETC would offer Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services, representing a significant step towards ensuring that all low-income consumers share in the many benefits associated with access to wireless services.

C. Impact on the Universal Service Fund

i-wireless’ request for designation as an ETC solely for Lifeline purposes would not unduly burden the USF or otherwise reduce the amount of funding available to other ETCs. The secondary role of Lifeline support with respect to overall USF expenditures is well documented. According to the Joint-Board’s most recent monitoring report, Lifeline funding totaled approximately \$974 million in 2009 while high-cost program expenditures amounted to approximately \$4.3 billion—more than four times the amount of Lifeline funding.⁴³ With Lifeline, ETCs only receive support for customers they obtain. The amount of support available to an eligible subscriber is exactly the same whether the support is given through a company such as i-wireless or the Incumbent LEC operating in the same service area. i-wireless will only

⁴¹ See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

⁴² See 47 U.S.C. § 254(b)(1).

⁴³ See *Universal Service Monitoring Report*, CC Docket 98-202, Tables 2.2 and 3.1 (2010).

increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not enrolled in another ETC's Lifeline program. Significantly, i-wireless' designation as an ETC will not increase the number of persons eligible for Lifeline support.

i-wireless' ability to increase the Lifeline participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and thus any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers.⁴⁴ As noted in the FCC's *i-wireless Forbearance Order*, "the additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest."⁴⁵ "A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance [associated with granting i-wireless' *Petition for Forbearance*] in the context of the Lifeline program outweighs the potential costs."⁴⁶

VII. ANTI-DRUG ABUSE CERTIFICATION

i-wireless certifies that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

⁴⁴ Projections for the number of Lifeline subscribers i-wireless expects to have within a year after ETC designation in Florida are attached as Exhibit E.

⁴⁵ *i-wireless Forbearance Order*, ¶ 19.

⁴⁶ *Id.*

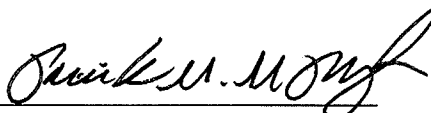
VIII. CONCLUSION

As discussed above, designation of i-wireless as an ETC in Florida accords with the requirements of Section 214(e)(6) of the Act and is in the public interest.

For all of the foregoing reasons, i-wireless respectfully requests that the Commission designate i-wireless as an ETC in Florida.

Respectfully submitted,

I-WIRELESS, LLC

By: 
Patrick McDonough
Vice President
1 Levee Way
Suite 3104
Newport, KY 41071

June 15, 2011

Exhibit A

i-wireless, LLC's Lifeline Rates

Option 1: Lifeline 150 Minutes Plan*

150 anytime minutes per month

(additional usage priced at 10 cent minutes and 10 cent text messages)

Net cost to Lifeline customer: **\$0**

**includes:*

- Free handset
- Free Voicemail, Caller-ID, and call waiting
- Free incoming text messages
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Up to 150 minutes can be rolled over to following month

Option 2: Lifeline 250 Minutes Plan*

250 anytime minutes per month

(additional usage priced at 10 cent minutes and 10 cent text messages)

Net cost to Lifeline customer: **\$0**

**includes:*

- Free handset
- Free Voicemail, Caller-ID, and call waiting
- Free calls to 911 emergency services
- Free balance inquiries

***additional charges apply for:*

- incoming text messages (charge per text: 10 cents; one text message decrements one minute of use)
- calls to Customer Service (minutes decrement from customers 250 minutes)

****additional restrictions:*

- Minutes cannot be rolled over to next month

Option 3: Lifeline \$15 Retail Discount Plan*

Lifeline eligible customers may choose any i-wireless monthly retail plan (excluding text only plans) at a \$15 discount. The following retail monthly plans are available as of February 2011:

Talk Plans (monthly)

- 200 anytime minutes, unlimited text messages, and 200 megabytes of data (web browsing and e-mail on capable phones) (additional usage priced at 10 cent minutes)
Net cost to Lifeline customer: **\$10** (plus applicable taxes and fees)
- 1,000 minutes, unlimited text messages and 500 megabytes of data (web browsing and e-mail on capable phones) (additional usage priced at 10 cent minutes)
Net cost to Lifeline customer: **\$25** (plus applicable taxes and fees)
- Unlimited talk (10 cents per text message; data packs sold separately)
Net cost to Lifeline customer: **\$25** (plus applicable taxes and fees)
- Unlimited talk, unlimited text messages and 2.5 gigabytes of data (web browsing and e-mail on capable phones)
Net cost to Lifeline customer: **\$45** (plus applicable taxes and fees)

**includes:*

- Free handset
- Free Voicemail, Caller-ID and call waiting
- Free incoming text messages
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Up to 1500 minutes can be rolled over to next month

Exhibit B

Affirmative Statement of the Florida Public Service Commission

COMMISSIONERS:
ART GRAHAM, CHAIRMAN
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

STATE OF FLORIDA



GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

Public Service Commission

June 2, 2011

Mr. Lance J.M. Steinhart, P.C.
Attorney At Law
1720 Windward Concourse
Suite 115
Alpharetta, GA 30005

Re: Docket No. 110101-TP – i-wireless, LLC's ETC designation

Dear Mr. Steinhart:

We received your May 20, 2011 letter requesting a statement that the Florida Public Service Commission's jurisdiction to grant ETC designation to i-wireless, LLC changed with Governor Scott's approval of HB 1231, the telecom reform bill. In your letter, you mentioned that i-wireless, LLC is a commercial mobile radio service provider.

This letter acknowledges that Governor Scott's approval of HB 1231, the telecom reform bill, revises Chapter 364, Florida Statutes, thereby changing the Commission's jurisdiction regarding telecommunications companies. I direct your attention to Chapter 364, Florida Statutes, including the revisions by HB 1231 for the proposition that the Federal Communications Commission, rather than this Commission is the appropriate agency to consider i-wireless, LLC's bid for ETC status.

Sincerely,

A handwritten signature in cursive script that reads "S. Curtis Kiser".

S. Curtis Kiser
General Counsel

cc: Beth W. Salak, Director, Division of Regulatory Analysis
Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis
Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel
Ann Cole, Commission Clerk, Office of Commission Clerk

Exhibit C

i-wireless Forbearance Order

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Telecommunications Carriers Eligible for)	WC Docket No. 09-197
Universal Service Support)	
)	
i-wireless, LLC Petition for Forbearance from 47)	
U.S.C. § 214(e)(1)(A))	

ORDER

Adopted: June 22, 2010

Released: June 25, 2010

By the Commission:

I. INTRODUCTION

1. In this order, we grant in part and deny in part a petition for forbearance filed by i-wireless, LLC (i-wireless), a prepaid wireless resale provider, requesting that the Commission forbear from the requirement that a carrier designated as an eligible telecommunications carrier (ETC) for purposes of federal universal service support provide services, at least in part, over its own facilities.¹ As a result, i-wireless may seek ETC designation to offer discounted service to qualified low-income consumers through the universal service Lifeline program. i-wireless will be subject to the same conditions that the Commission previously applied to prepaid wireless resellers TracFone Wireless, Inc. and Virgin Mobile USA, L.P. in granting similar requests. The conditions will help to ensure that, if i-wireless is granted ETC designation for the purpose of providing Lifeline service, its low-income consumers have access to 911 and enhanced 911 services and will help to protect the universal service fund against waste, fraud and abuse. However, we deny i-wireless's petition for forbearance for the purposes of participating in the Link Up program because the company has not demonstrated that granting its request satisfies the three-prong statutory test for forbearance.²

II. BACKGROUND

2. Congress directed the Commission to establish the universal service fund to help ensure that "[q]uality services [are] available at just, reasonable, and affordable rates" for consumers throughout the nation, "including low-income consumers."³ The Commission's Lifeline program furthers this goal by reducing the price of monthly telephone service for low-income consumers, and the Commission's

¹ i-wireless, LLC Petition for Forbearance, CC Docket No. 96-45 (filed Apr. 1, 2009) (Forbearance Petition). On March 23, 2010, pursuant to section 10(c) of the Act, the Wireline Competition Bureau (Bureau) extended until June 30, 2010, the date on which the Forbearance Petition shall be deemed granted in the absence of a Commission decision that the petition fails to meet the standard for forbearance under section 10(a) of the Act. *i-wireless, LLC Petition for Forbearance*, CC Docket No. 96-45, Order, 25 FCC Rcd 2762 (Wireline Comp. Bur. 2010); 47 U.S.C. § 214(e).

² 47 U.S.C. § 160(a).

³ 47 U.S.C. § 254(b)(3).

Link Up program furthers this goal by reducing the customary connection charge for commencing telephone service at a low-income consumer's principal place of residence.⁴

3. The Communications Act of 1934, as amended (the Act), provides that only an entity designated as an eligible telecommunications carrier shall be eligible for universal service high-cost and low-income support.⁵ To become an ETC, a common carrier must offer the services supported by the federal universal service support mechanisms "either using its own facilities or a combination of its own facilities and resale of another carrier's services" to each customer in its designated service area.⁶ Carriers designated as ETCs generally must participate in the Lifeline and Link Up programs and are reimbursed for the revenues foregone through their participation in these programs.⁷

4. The Commission has granted two petitions for forbearance from the facilities requirement for ETC designation in section 214(e) of the Act. In 2005, the Commission forbore from applying the facilities requirement to TracFone Wireless, Inc. (TracFone), a wireless reseller, insofar as TracFone sought ETC designation only for the purpose of receiving Lifeline support.⁸ Similarly, in 2009, the Commission forbore from applying the facilities requirement to another wireless reseller, Virgin Mobile USA, L.P. (Virgin Mobile).⁹ In both orders, the Commission conditioned forbearance on the carriers' meeting certain obligations upon being designated as an ETC that are tailored to the concerns arising from each carrier's lack of facilities and proposed service offering.¹⁰

⁴ Through the Lifeline program, low-income consumers may receive discounts of up to \$13.50 off the monthly cost of telephone service, with the federal program reimbursing the ETC up to \$10 each month. 47 C.F.R. § 54.401(a)(2). In tribal areas, the federal program reimburses ETCs up to an additional \$25 each month. 47 C.F.R. § 54.405(a)(4). Through the Link Up program, low-income consumers may receive discounts of up to \$30 off the connection charge. 47 C.F.R. § 54.411(a)(1). In tribal areas, low-income consumers may receive up to an additional \$70 off the connection charge. 47 C.F.R. § 54.411(a)(3).

⁵ 47 U.S.C. § 254(e). A carrier need not be an ETC to participate in the schools and libraries or rural health care universal service programs. 47 U.S.C. § 254(h)(1)(A) and (B)(ii); see *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9015, para. 449 (1997) (*Universal Service First Report and Order*) (subsequent history omitted); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-46, Fourteenth Order on Reconsideration, 14 FCC Rcd 20106, 20114-15, para. 19 (1999) (*Fourteenth Order on Reconsideration*).

⁶ 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)(1). Because a carrier need not be an ETC to participate in the schools and libraries or rural health care universal service programs, a carrier need not offer service over its own facilities to receive support from those programs. See *supra* note 5.

⁷ See 47 C.F.R. § 54.407(b)-(c). ETCs designated for the limited purpose of participating in the Lifeline program, in contrast, may only receive Lifeline support.

⁸ *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (*TracFone Forbearance Order*).

⁹ *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petition for Designation as an Eligible Telecommunications Carrier in the State of New York; Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of North Carolina; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) (*Virgin Mobile Forbearance Order*).

¹⁰ Specifically, each carrier must: (1) provide its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (2) provide its Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (3) comply with conditions (1) and (2) as of the date it provides Lifeline service; (4) obtain a certification from each public-safety answering point (PSAP) where the carrier provides Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certify that it does so if certain conditions are met; (5) require each customer to self-certify at time of service activation and (continued . . .)

5. *i-wireless Forbearance Petition*. Like Tracfone and Virgin Mobile, i-wireless is a non-facilities-based commercial mobile radio service (CMRS) provider (i.e., a pure wireless reseller) that provides prepaid wireless telecommunications services.¹¹ On April 1, 2009, i-wireless filed a petition seeking forbearance from the facilities requirement of section 214(e) of the Act so that it may be designated as an ETC and be eligible to receive Lifeline and Link Up low-income support.¹² i-wireless states that its request for forbearance satisfies the statutory requirements and is in the public interest.¹³ Further, i-wireless agrees to abide by the conditions imposed on TracFone and Virgin Mobile as part of the Commission's decisions granting those carriers' requests to forbear from the ETC facilities requirement to allow them to receive Lifeline support only.¹⁴

III. DISCUSSION

6. The Act requires the Commission to forbear from applying any requirement of the Act or of our regulations to a telecommunications carrier if and only if the Commission determines that: (1) enforcement of the requirement is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of that requirement is not necessary for

(continued from previous page) —————

annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier; (6) establish safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address; (7) deal directly with the customer to certify and verify the customer's Lifeline eligibility; and (8) submit to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement these conditions. *See id.* at 3386–87, 3392, paras. 12, 26; *TracFone Forbearance Order*, 20 FCC Rcd at 15098–99, 15104, paras. 6, 19; *Federal-State Joint Board on Universal Service*; *TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Florida*; *Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Connecticut*; *Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Massachusetts*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Delaware for the Limited Purpose of Offering Lifeline Service to Qualified Households*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire for the Limited Purpose of Offering Lifeline Service to Qualified Households*; *Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania for the Limited Purpose of Offering Lifeline Service to Qualified Households*; *Petition for Designation as an Eligible Telecommunications Carrier in the District of Columbia for the Limited Purpose of Offering Lifeline Service to Qualified Households*, CC Docket No. 96-45, Order, 24 FCC Rcd 3375 (2009) (*TracFone Forbearance Modification Order*).

¹¹ Forbearance Petition at 2.

¹² *See* Forbearance Petition. On June 5, 2009, the Bureau issued a public notice seeking comment on the Forbearance Petition. *Comment Sought on i-wireless, LLC Petition for Forbearance from Eligible Telecommunications Carrier Facilities Requirement*, CC Docket No. 96-45, Public Notice, 24 FCC Rcd 7682 (Wireline Comp. Bur. 2009). Comments on the Forbearance Petition were filed by the National Association of State Utility Consumer Advocates (NASUCA) and the National Emergency Number Association (NENA). Reply comments were filed by NASUCA, i-wireless, and the Pennsylvania Public Utility Commission (Pennsylvania Commission). We interpret i-wireless's petition to request forbearance not only from the statutory facilities requirement, 47 U.S.C. § 214(e)(1)(A), but also from our parallel regulatory requirements, 47 C.F.R. § 54.201(d)(1), (i). We have previously read these requirements to have the same scope and purpose as the statutory provision. *See Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3386–87 n.41.

¹³ Forbearance Petition at 8–13.

¹⁴ Forbearance Petition at 13; *TracFone Forbearance Order*, 20 FCC Rcd at 15098–99, 15104, paras. 6, 19; *Virgin Mobile Forbearance Order*, 24 FCC Rcd 3386–87, 3392, paras. 12, 26.

the protection of consumers; and (3) forbearance from applying that requirement is consistent with the public interest.¹⁵ As in the *TracFone Forbearance Order* and the *Virgin Mobile Forbearance Order*, we examine the facilities requirement from which i-wireless seeks forbearance in light of the statutory goal of providing low-income consumers with access to telecommunications services and in light of the specific programs in which i-wireless seeks to participate. Because our prior orders have laid the path for examining forbearance requests in the context of the Lifeline program, we first evaluate i-wireless's petition in that context. We then turn to the new issue of whether i-wireless has demonstrated that the statutory requirements for forbearance are met in the context of the Link Up program.

A. Forbearance for Lifeline

7. In this section, we evaluate whether i-wireless has met the three-prong statutory test for forbearance to receive Lifeline support. For the reasons provided below, we conditionally grant the request of i-wireless for forbearance from the facilities requirement of section 214(e) for the purpose of seeking ETC designation to provide Lifeline support only.

8. *Just and Reasonable.* As an initial matter, we note that a provision or regulation is "necessary" if there is a strong connection between the requirement and regulatory goal.¹⁶ Section 10(a)(1) of the Act requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support only is necessary to ensure that the charges, practices, classifications or regulations are just and reasonable and not unjustly or unreasonably discriminatory.¹⁷

9. As the Commission found in the *TracFone Forbearance Order* and the *Virgin Mobile Forbearance Order*, we conclude that the section 214(e) facilities requirement is not necessary to ensure that i-wireless's charges, practices, and classifications are just and reasonable and not unjustly or unreasonably discriminatory where it is providing Lifeline service only.¹⁸ As a reseller, i-wireless is by definition subject to competition. We expect that i-wireless's Lifeline offerings will compete, at a minimum, with the Lifeline offerings of the incumbent wireline carrier in a given geographic area, and potentially, depending on the states where i-wireless seeks ETC designation, with the offerings of TracFone and Virgin Mobile.¹⁹ We also expect that this competition will spur innovation amongst carriers in their Lifeline offerings, expanding the choice of Lifeline products for eligible consumers. For these reasons, we find that the first prong of section 10(a) is met. In the limited context of Lifeline support, the facilities requirement is not necessary to ensure that i-wireless's charges, practices, and classifications are just and reasonable.

10. *Consumer Protection.* Section 10(a)(2) requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation only for Lifeline support is necessary for the protection of consumers. As in the cases of TracFone and Virgin Mobile, we find that imposing the facilities requirement on i-wireless is not necessary for the protection of consumers so long as the carrier complies with the obligations described below. Specifically, we conclude that forbearance from this provision will benefit consumers. Indeed, if i-wireless is ultimately granted limited ETC status, it would be offering Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services. The prepaid feature may be an

¹⁵ 47 U.S.C. § 160(a)–(b). In making a public interest determination, section 10(b) requires the Commission to consider whether forbearance will promote competitive market conditions.

¹⁶ See *CTIA v. FCC*, 330 F.3d 502, 512 (D.C. Cir. 2003).

¹⁷ 47 U.S.C. § 160(a)(1); 47 U.S.C. § 214(e).

¹⁸ See *TracFone Forbearance Order*, 20 FCC Rcd at 15100, para. 12; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389, para. 20.

¹⁹ See 47 C.F.R. § 54.405(a) (requiring ETCs to offer Lifeline service).

attractive alternative for such consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

11. Given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer's only connection to the public switched telephone network, however, we condition this grant of forbearance on i-wireless's compliance with certain obligations upon being designated as an ETC, consistent with the public safety obligations previously imposed on TracFone and Virgin Mobile.²⁰ Specifically, our forbearance is conditioned on i-wireless:

- (1) providing its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes;
- (2) providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service;
- (3) complying with conditions (1) and (2) as of the date it provides Lifeline service; and
- (4) obtaining a certification from each PSAP where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met.

12. The Commission has an obligation to promote "safety of life and property" and to "encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure" for public safety.²¹ The provision of 911 and E911 services is critical to our nation's ability to respond to a host of crises, and this Commission has a longstanding and continuing commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers.²² As we have held previously, we believe these obligations are necessary to ensure that the Lifeline customers of these wireless resellers have meaningful access to emergency services.²³

13. Consistent with the obligations we have placed on TracFone and Virgin Mobile, these obligations apply in any state in which i-wireless becomes an ETC and plans to serve any customers without using its own facilities. Additionally, i-wireless must furnish to the Commission upon request copies of all certifications required by the fourth obligation.²⁴ Furthermore, if i-wireless seeks to use the self-certification option, it may do so only after complying with the following procedures. *First*, i-wireless must request certification from the PSAP and notify the PSAP that the carrier may self-certify compliance if the PSAP has neither provided certification nor made an affirmative finding that the carrier does not provide its customers with access to 911 and E911 service within the PSAP's service area within 90 days of the request. This evaluation period commences upon proper notification.²⁵ The evaluation

²⁰ See *TracFone Forbearance Order*, 20 FCC Rcd at 15101-02, paras. 15-16; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390-91, paras. 21-23.

²¹ *Applications of Nextel Communications, Inc. and Sprint Corporation For Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-63, Memorandum Opinion and Order, 20 FCC Rcd 13967, 14020, para. 144 (2005).

²² *Id.*

²³ See *TracFone Forbearance Order*, 20 FCC Rcd at 15101-02, paras. 15-16; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390-91, para. 21-23.

²⁴ See *Virgin Mobile ETC Designation Order*, 24 FCC Rcd at 3390, para. 22.

²⁵ *Id.* at 3390-91, para. 22. Consistent with the *Virgin Mobile Forbearance Order*, in providing notice that it may self-certify, i-wireless must provide a PSAP with all of the information and/or equipment requested by the PSAP in analyzing i-wireless's ability to provide 911 and E911 to its customers.

period is tolled whenever a PSAP reasonably requests information or equipment to evaluate the carrier's request until the carrier responds with that information or equipment.²⁶ If a PSAP determines that the carrier will not offer its Lifeline customers appropriate access to emergency services or has concerns regarding the carrier's ability and if the PSAP notifies the carrier of its concerns during the evaluation period, the evaluation period is extended by an additional 90 days and the carrier may not self-certify compliance until it has addressed the PSAP's concerns.²⁷ *Second*, before self-certifying, the carrier must obtain from its underlying carrier in that area certification that the underlying carrier routes emergency calls from the carrier's customers to the PSAP in the same manner that it routes emergency calls from its own customers.²⁸ *Third*, the carrier must provide the PSAP with a copy of the relevant self-certifications at the time it is effective.²⁹ *Fourth*, if a PSAP finds that i-wireless does not provide its customers with 911 and E911 access after the carrier has self-certified that it does, the carrier must notify the Commission of this finding upon receiving notice and must explain how it plans to meet the PSAP's concerns and provide Lifeline customers with appropriate 911 and E911 access.³⁰

14. Accordingly, we find that, subject to the 911 and E911 conditions and the self-certification and other conditions set out above, and consistent with the Commission's grant of forbearance to TracFone and Virgin Mobile, the ETC facilities-based requirement is not necessary for consumer protection with respect to i-wireless's receipt of Lifeline support only. We therefore conclude that the second element of section 10(a) is satisfied.

15. *Public Interest.* Section 10(a)(3) requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support only is in the public interest. In evaluating whether forbearance is in the public interest, we follow the path we laid out in the *TracFone Forbearance Order* and the *Virgin Mobile Forbearance Order*. We note first that the Commission's traditional concern with a carrier doubling its recovery by reselling facilities that are already supported by the high-cost fund does not apply in the low-income context.³¹ We also note that Lifeline support is designed to reduce the monthly cost of telecommunications service for qualifying low-income consumers and is directly reflected in the price that the low-income customer pays.³² Requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program.³³ In accordance with our forbearance grants to TracFone and Virgin Mobile, we find that the public interest is served by forbearing from the facilities requirement in section 214(e) to allow i-wireless to receive Lifeline support.³⁴

²⁶ *Id.* at 3391, para. 22.

²⁷ *Id.* at 3390 n.67.

²⁸ *Id.* at 3391, para. 22. Like other certifications, the carrier is required to retain these underlying carrier certifications and provide them to the Commission upon request.

²⁹ *Id.*

³⁰ *Id.*

³¹ See *TracFone Forbearance Order*, 20 FCC Rcd at 15100-01, para. 12; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389, para. 18.

³² 47 C.F.R. §§ 54.401, 54.504.

³³ See *TracFone Forbearance Order*, 20 FCC Rcd at 15104-05, para. 23; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393, para. 29.

³⁴ See *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392-93, para. 27 ("[W]e do not believe that similar requests will have a detrimental impact on the fund. We note that to the extent any similarly situated prepaid wireless reseller seeks forbearance from these requirements for the purpose of providing only Lifeline support, it (continued . . .)

16. Continued growth of the universal service fund has highlighted in recent years the importance of the Commission's continued commitment to fight waste, fraud, and abuse. Accordingly, in addition to the consumer protection conditions outlined above and consistent with obligations imposed on TracFone and Virgin Mobile, we find that it is necessary to require i-wireless to assume additional obligations designed to protect against waste, fraud, and abuse.³⁵ Specifically, we condition our forbearance from the facilities requirement on i-wireless:

- (5) requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier;
- (6) establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address;
- (7) dealing directly with the customer to certify and verify the customer's Lifeline eligibility; and
- (8) submitting to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement the obligations contained in this order within 30 days of the effective date of this order.

17. As we have held previously, we believe these obligations are necessary safeguards to help deter waste, fraud, and abuse.³⁶ These obligations apply in any state in which i-wireless becomes an ETC and plans to serve any customers without using its own facilities. Consistent with the obligations we have placed on TracFone and Virgin Mobile, we require i-wireless to clearly state the penalties for perjury on the self-certification form it uses to comply with the fifth obligation and to monitor compliance of its customers' self-certifications by retaining those self-certifications and providing them, as well as documentation of how the carrier obtained the certification, to the Commission upon request.³⁷

18. We disagree with parties that argue that we should condition our forbearance on i-wireless complying with additional obligations, such as offering a particular usage package or complying with state-level 911 and E911 obligations.³⁸ We believe it is appropriate to leave those assessments to whichever commissions will rule on i-wireless's petitions for designation as an ETC. A state commission is generally in a better position than we to assess whether a particular offering will benefit that state's low-income consumers and to determine whether it is necessary to condition ETC designation on compliance with state-level 911 and E911 obligations.³⁹ We therefore encourage parties arguing for

(continued from previous page) _____

will be expected to comply with all the conditions we imposed upon TracFone, which Virgin Mobile has agreed to do.”).

³⁵ See *TracFone Forbearance Order*, 20 FCC Rcd at 15103–04, 15105, paras. 18, 25; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392, para. 25.

³⁶ These obligations are in addition to, and do not supplant, the certification and verification eligibility already required by our rules for federal default states and any similar state rules for the non-federal default states. See, e.g., 47 C.F.R. § 54.410. On May 4, 2010, the Commission asked the Federal-State Joint Board on Universal Service to review the Commission's eligibility, verification, and outreach rules for the Lifeline and Link Up universal service programs. See *Federal-State Joint Board on Universal Service; Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Order, 25 FCC Rcd 5079 (2010).

³⁷ See *TracFone Forbearance Order*, 20 FCC Rcd at 15103–04, 15105, paras. 18, 25; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392, para. 25 & n.74.

³⁸ See, e.g., NASUCA Comments at 4–5 (arguing that forbearance is inappropriate unless i-wireless explains how it will apply the Lifeline discount to its plans); NENA Comments at 1–2 (arguing that carriers seeking forbearance should commit to complying with state-level 911 and E911 obligations as a condition of forbearance).

³⁹ Of course, if a state commission does not have jurisdiction to designate i-wireless as a limited-purpose ETC, we will consider i-wireless's application as well as whether any additional obligations are necessary for that particular designation to be in the public interest. See 47 U.S.C. § 214(e)(6).

additional obligations to redirect their arguments to ETC designation proceedings rather than this proceeding.

19. Similarly, we are not persuaded by comments regarding the impact on the size of the universal service fund and the associated contribution obligation if we grant the forbearance petition.⁴⁰ Granting forbearance here would allow i-wireless to compete with TracFone and Virgin Mobile (as well as other ETCs) for the existing pool of low-income customers, and the size of that pool is determined by Lifeline program eligibility requirements, not by the number of providers competing for those customers. The additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest. A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance in the context of the Lifeline program outweighs the potential costs.⁴¹

20. In conclusion, we find that conditionally granting i-wireless forbearance for purposes of seeking ETC designation to participate in the Lifeline program only will further the statutory goal of providing low-income subscribers access to telecommunications and emergency services, while protecting the universal service fund against waste, fraud, and abuse.⁴² To the extent, however, that our predictive judgment proves incorrect and these conditions prove to be inadequate safeguards, parties may file appropriate petitions with the Commission and we have the option of reconsidering this forbearance ruling.⁴³

B. Forbearance for Link Up

21. We decline to grant the request of i-wireless for forbearance from the facilities requirement for the purpose of seeking ETC designation to receive Link Up support.⁴⁴ Petitioners seeking forbearance bear the burden of proof and must show that each of the statutory elements of forbearance is met.⁴⁵ i-wireless has not done so in the context of the Link Up program. Specifically, i-wireless does not

⁴⁰ See Pennsylvania Commission Reply at 5–6.

⁴¹ For example, Virgin Mobile (the second wireless reseller to receive forbearance) has recently increased the number of minutes it offers to low-income consumers through its Lifeline product to attract more customers. Compare, e.g., Pennsylvania Commission Reply, CC Docket No. 96-45, at 6 n.16 (filed July 20, 2009) (noting that Virgin Mobile planned to offer 120 free prepaid minutes to Lifeline customers), with Virgin Mobile Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Alabama, WC Docket No. 09-197, at 8 (filed Jan. 15, 2010) (noting that Virgin Mobile plans to offer 200 free prepaid minutes to its Lifeline customers).

⁴² i-wireless has committed to complying with all the obligations imposed on TracFone and Virgin Mobile as conditions of forbearance. See Forbearance Petition at 13.

⁴³ See *Petition for Forbearance of the Verizon Telephone Companies Pursuant to 47 U.S.C. § 160(c)*, WC Docket No. 01-338, Memorandum Opinion and Order, 19 FCC Rcd 21496, 21508–09, para. 26 & n.85 (2004); see also *Petition of SBC Communications Inc. for Forbearance from Structural Separations Requirements of Section 272 of the Communications Act of 1934, As Amended, and Request for Relief to Provide International Directory Assistance Services*, CC Docket No. 97-172, Memorandum Opinion and Order, 19 FCC Rcd 5211, 5223–24, para. 19 & n.66 (2004); *Cellnet Communications, Inc. v. FCC*, 149 F.3d 429, 442 (6th Cir. 1998).

⁴⁴ See Forbearance Petition at 8–14.

⁴⁵ See, e.g., *Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance under Section 10 of the Communications Act of 1934, As Amended*, WC Docket No. 07-267, Report and Order, 24 FCC Rcd 9543, 9554–55, para. 20 (2009) (“We now state explicitly that the burden of proof is on forbearance petitioners at the outset and throughout the proceeding.”); *Petitions of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan Statistical Areas*, WC Docket No. 07-97, Memorandum Opinion and Order, 23 FCC Rcd 11729, 11750, 11754–58, paras. 28, 36, 39 (2008) (noting that Qwest had failed to meet its burden of persuasion regarding sufficiency of market share).

address in its petition the differences between the Lifeline and Link Up programs, nor does the company explain how the obligations conditional to Lifeline participation would apply in the context of Link Up. Moreover, i-wireless does not explain how the public interest would be served by forbearing from the facilities requirement in this context.⁴⁶ General references to the statutory goal of ensuring that low-income consumers have access to telecommunications services do not suffice to replace a particularized argument regarding the facts and policy surrounding the facilities requirement and the Link Up program.⁴⁷ We thus conclude that i-wireless has failed to meet its burden to show that forbearing from the facilities requirement in the context of the Link Up program is in the public interest.⁴⁸

IV. ORDERING CLAUSES

22. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 254, the petition for forbearance filed by i-wireless Telecom, LLC IS GRANTED IN PART to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order and otherwise DENIED.

23. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 254, we forbear from applying sections 54.201(d)(1) and 54.201(i) of the Commission's rules, 47 C.F.R. § 54.201(d)(1), (i), to i-wireless Telecom, LLC to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

24. IT IS FURTHER ORDERED that, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), this order SHALL BE effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴⁶ See Forbearance Petition at 8–14 (discussing Link Up only in the context of its discussion of Lifeline).

⁴⁷ See *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, Third Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 19853, 19879–80, para. 55 (1998) (“MariTEL’s request cannot be granted because it is too vague, both as to the specific provisions from which we should forbear from enforcing, and as to why forbearance would be in the public interest.”).

⁴⁸ Because we find that i-wireless has not met its burden of proof on the third statutory element, we do not examine whether it did so on the first or second elements.

Exhibit D

i-wireless, LLC's Compliance Plan

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Telecommunications Carriers Eligible for)	WC Docket No. 09-197
Universal Service Support)	
)	
i-wireless, LLC Petition for Forbearance from 47)	
U.S.C. § 214(e)(1)(A))	

I-WIRELESS, LLC'S COMPLIANCE PLAN

i-wireless, LLC (“i-wireless” or the “Company”), by its attorney, hereby files its plan outlining the measures it will take to implement the conditions imposed by the Federal Communications Commission (“Commission”) in its recent Order, released June 25, 2010, in the above-captioned matter¹. Given the severe economic environment that is forcing many lower-income customers to forego wireless service, i-wireless respectfully requests expeditious approval of this plan so that the Company, upon designation as an Eligible Telecommunications Carrier (“ETC”), may quickly deploy much-needed Lifeline services to many low-income customers.

BACKGROUND

The Commission’s *Order* conditionally granted i-wireless’ request for forbearance from the Section 214(e)(1)(A) requirement that a carrier designated as an ETC for purposes of federal universal service support provide services, at least in part, over its own facilities, stating “i-wireless may seek ETC designation to offer discounted services to qualified low-income consumers through the universal service Lifeline program².” The petition for forbearance was denied for the purposes of participating in the Link Up program.

The Commission found that a conditional grant of forbearance for i-wireless from the facilities requirement of section 214(e) for the purpose of seeking ETC designation to provide Lifeline support only “will further the statutory goal of providing low-income subscribers access to

¹ See *Federal-State Joint Board on Universal Service; In the Matter of i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, FCC 10-117, released June 25, 2010 (“*Order*”).

² *Order* at ¶ 1.

telecommunications and emergency services, while protecting the universal service fund against waste, fraud and abuse³.” The Commission’s grant of forbearance is subject to the following conditions: (a) i-wireless providing its Lifeline customers with 911 and Enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; and (d) i-wireless obtaining a certification from each PSAP where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from i-wireless at the same address; and (g) i-wireless dealing directly with the customer to certify and verify the customer’s Lifeline eligibility⁴. The Commission required i-wireless to submit a plan describing the measures it would take to implement each one of these conditions within thirty days of the release of the Order⁵.

COMPLIANCE PLAN

i-wireless commends the Commission’s commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers⁶. i-wireless will comply with all conditions set forth in the *Order*, the provision of this Compliance Plan, and all laws and regulations governing its provision of Lifeline-supported prepaid wireless service to customers throughout the United States.

I. Access to 911 and E911 Services

In the *Order*, the Commission required i-wireless to provide its Lifeline customers with access to 911 and E911 services immediately upon activation of service, and stated that, in order to demonstrate compliance with the condition, i-wireless must obtain certification from each PSAP

³ *Order* at ¶ 20.

⁴ *See Order* at ¶¶ 11, 16.

⁵ *See id.*

⁶ *See Order* at ¶ 12.

where it provides Lifeline service confirming that its customers receive 911 and E911 services. If within 90 days of i-wireless' request, a PSAP has neither provided the certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, the *Order* allowed i-wireless to self-certify that it meets the requirements⁷. The Commission and consumers are hereby assured that all i-wireless customers will have available access to emergency calling services at the time that Lifeline service is initiated, and that such 911 and E911 access will be available from i-wireless handsets, even if the account associated with the handset has no minutes remaining.

i-wireless can ensure the Commission that all Lifeline customers will have meaningful access to emergency calling services at the time the customer activates Lifeline service, and that such access will continue regardless of the customer's account status or the availability of prepaid minutes. The Company's existing practices currently provide access to 911 and E911 services to the extent that these services have been deployed by its underlying carrier, Sprint Nextel ("Sprint"). i-wireless also currently enables 911 emergency calling services for all properly activated handsets regardless of whether the account associated with the handset is active, suspended or terminated. Finally, the Company transmits all 911 calls initiated from any of its handsets even if the account associated with the handset has no remaining minutes.

To satisfy the conditions of the *Order* regarding 911 and E911 services, i-wireless will implement the following measure prior to deploying Lifeline services in a given area. Initially, the Company will confirm that its underlying carrier has deployed E911 services in a specific PSAP territory. i-wireless will obtain the requisite certification from each PSAP where it provides Lifeline service confirming that its customers receive 911 and E911 services⁸. If within 90 days of receiving the Company's request, a PSAP has neither provided such certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, i-wireless will self-certify that it meets the basic and E911 requirements.

II. E911-Compliant Handsets

The Commission also conditioned its grant of forbearance determination on i-wireless providing only E911-compliant handsets to its Lifeline customers⁹. i-wireless will ensure that all

⁷ See *Order* at ¶ 13.

⁸ A form of this PSAP certification request is attached hereto as Exhibit A.

⁹ See *Order* at ¶ 11.

handsets used in connection with the Lifeline service offering will be E911-compliant. In fact, i-wireless' phones have always been and will continue to be 911 and E911-compliant. i-wireless uses phones from Sprint that have been through a stringent certification process in Sprint's handset certification lab, which ensures that the handset models used meet all 911 and E911 requirements. In i-wireless' four year history, only one handset model has failed the E911 process during the handset lab certification, and that is a model the Company did not launch. As a result, any existing customer that qualifies for and elects Lifeline service will already have a 911/E911-compliant handset, which will be confirmed at the time of enrollment in the Lifeline program. Furthermore, in the event that an existing customer does not have an E911-compliant handset, the Company will replace it with a new 911/E911-compliant handset at no charge to the customer. Any new customer that qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911-compliant handset as well, free of charge.

III. Certification of Lifeline Customers' Eligibility

To safeguard against misuse of the Lifeline service plan, the *Order* required i-wireless to deal directly with the customer and require each customer to self-certify under penalty of perjury at time of service activation and annually thereafter that they are the head of household and receive Lifeline-supported service only from i-wireless¹⁰. The Commission also required i-wireless to establish safeguards to prohibit more than one supported i-wireless service at each residential address¹¹. i-wireless proposes the following plan to implement these certification and verification conditions:

A. Policy

i-wireless will comply with all certification and verification requirements for Lifeline eligibility established by states where it is designated as an ETC. In states where there are no state-imposed requirements, i-wireless will comply with the certification and verification procedures in effect in that state as reflected on the website of the Universal Service Administration Company. However, for any states which do not mandate Lifeline support and/or which do not have established rules of procedure in place, i-wireless will certify at the outset and will verify annually consumers' Lifeline eligibility in accordance with the Commission's requirements.

¹⁰ See *Order* at 16.

¹¹ See *id.*

B. Certification Procedures

i-wireless will implement certification procedures that enable consumers to demonstrate their eligibility for Lifeline assistance by contacting i-wireless via telephone, facsimile, or the internet. At the point of sale, consumers will be provided with printed information describing i-wireless' Lifeline program, including eligibility requirements, and with instructions for enrolling. Consumers will be directed to a toll-free telephone number and to i-wireless' website, which will contain a link to information regarding the Company's Lifeline service plan, including a detailed description of the program and state-specific eligibility criteria. i-wireless understands and accepts the Commission's requirement that the Company have direct contact with all customers applying for participation in the Lifeline program¹². Retailers will have no role in the Lifeline application process, other than to provide customers with printed information regarding the program.

Consumers will be required to call a toll-free number to complete an application over the phone. The application will then be mailed to the customer for signature under penalty of perjury and for the submission of supporting documentation. The signed application and support documentation must be mailed to the address provided by the Company. Processing of consumers' applications, including review of all application forms and relevant documentation, will be performed under i-wireless' supervision by managers experienced in the administration of the Lifeline program.

i-wireless will insure that all required documentation is taken care of properly by using state-specific compliance checklists. In addition, the Lifeline application form will include a certification section where the applicant must attest and sign under penalty of perjury that the applicant meets the relevant eligibility criteria. For states with program-based eligibility criteria, the form will list each of the qualifying programs, and the applicant will be required to identify the program(s) in which they participate. For states with income-based eligibility criteria, the applicant will be required to certify under penalty of perjury that their household income does not exceed the relevant threshold (*e.g.*, 135% of the Federal Poverty Guidelines for federal default states) and will be required to provide proof of income-based eligibility. Applicants will also be required to certify under penalty of perjury that they are head of their household and receive Lifeline-supported service only from i-wireless. Penalties for perjury will be clearly-stated on the certification form, as

¹² See Order at ¶ 16.

required by the *Order*¹³.

Finally, the application forms will require each applicant to provide their name, primary residential address and an alternate telephone number (if any). i-wireless will incorporate this information into its customer information database. The Company will check the name and address of each Lifeline applicant against its database to determine whether or not it is associated with a customer that already receives i-wireless Lifeline service, and will then review the application to ascertain whether the applicant is attempting to receive Lifeline-supported service for more than one handset associated with the address. i-wireless will deny the Lifeline application of any such individual and advise the applicant of the basis for the denial. i-wireless shares the Commission's concern about abuse of the Lifeline program and is thus committed to the safeguards stated herein, with the belief that the procedures it will implement will prevent i-wireless customers from engaging in such abuse of the program.

C. Verification Procedures

As required by the Commission's *Order*, i-wireless will require every consumer enrolled in the Lifeline program to verify on an annual basis that they are the head of their household and only receive Lifeline service from i-wireless¹⁴. i-wireless will notify each participating Lifeline consumer on the anniversary of their enrollment that they must confirm their continued eligibility in accordance with the applicable requirements. Such verification will be required in order for the consumer to continue to purchase prepaid airtime from i-wireless at the discounted rate only available to those customers who are enrolled in its Lifeline program.

¹³ See *Order* at ¶ 17.


¹⁴ See *Order* at ¶ 16.

CONCLUSION

i-wireless submits that its Compliance Plan fully satisfies the conditions set forth in the Commission's *Order* granting forbearance to the Company. Implementation of the procedures described herein will promote public safety and should ensure that Lifeline customers have access to 911 and E911 services while safeguarding against misuse of the Company's Lifeline services. Accordingly, i-wireless respectfully requests that the Commission expeditiously approve its Compliance Plan so that i-wireless may begin providing the benefits of much-needed Lifeline service to qualifying low-income consumers as quickly as possible.

Respectfully submitted,

I-WIRELESS, LLC



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Alpharetta, Georgia 30005
(770) 232-9200

Its Counsel

Dated July 26, 2010

EXHIBIT A

PSAP CERTIFICATION REQUEST

[Date]

Public Safety Answering Point Coordinator
[Address]

Re: Request for PSAP Certification for Lifeline Participation

Dear PSAP Coordinator:

This is to inform you that i-wireless, LLC ("i-wireless"), has been designated an Eligible Telecommunications Carrier ("ETC") by the Federal Communications Commission ("FCC") for the purpose of offering reduced-cost service to low-income customers in the state of [State] under the federal Lifeline program. (See attached FCC Order _____ released _____.)

Lifeline ensures that low-income customers have access to quality telephone service at a reasonable, affordable rate, and i-wireless is pleased to be among the wireless carriers offering Lifeline service to low-income customers, particularly during this difficult economic environment.

The FCC's approval for i-wireless to offer Lifeline service was conditional upon the following requirements: (1) offer 911 and enhanced 911 (E911) access immediately upon activation of service, and (2) provide its new Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who subscribe to Lifeline service. The FCC further required that i-wireless seek certification from each Public Safety Answering Point ("PSAP") where i-wireless intends to offer Lifeline service confirming that i-wireless provides its customers with 911 and E911 access. i-wireless is seeking this certification from your PSAP based on the information provided in this letter and any additional information you may request.

i-wireless' wireless services operate on the Sprint Nextel ("Sprint") network. As you may be aware, Sprint has completed the deployment of facilities necessary to offer Phase I and/or II E911 services in your service area, providing Sprint and i-wireless customers with 911 and E911 access. i-wireless' Lifeline customers will enjoy this same access to 911 and E911 service once activated for service, regardless of activation status or availability of prepaid airtime. As required by the FCC, all i-wireless handsets will comply with applicable federal requirements governing the provision of 911 and E911 service. i-wireless will provide new Lifeline customers with E911-compliant handsets and, for existing customers who subscribe to Lifeline service, will verify that their handsets are E911-compliant or replace the handset at no charge to the customer.

For your convenience, enclosed is a certification form for your review and signature as PSAP Coordinator. Please return the signed certification form in the self-addressed stamped envelope. As required by the FCC, i-wireless will keep the certification on file in the event the FCC seeks to review this documentation. **If within 90 days of receipt of this letter, you do not provide the certification or make an affirmative finding that i-wireless does not provide its customers with 911 and E911 service in your area, i-wireless is permitted to self-certify compliance with the requirements for 911 and E911 access for this PSAP.** (See FCC Order _____ at para. ____.)

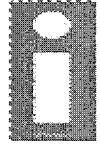
Should you have any questions about the foregoing, please contact us at pat.mcdonough@iwirelesshome.com. Please be sure to include your name and address in the email.

Thank you in advance for your cooperation and for enabling i-wireless to offer Lifeline service to low-income customers in your PSAP jurisdiction.

Sincerely,

i-wireless, LLC

**i-wireless Lifeline Program
PSAP Certification Form**



State of _____

PSAP Name: _____

PSAP Coordinator Name: _____

Business Address: _____

PSAP Jurisdiction Description: _____

In my capacity as the Coordinator for the Public Safety Answering Point ("PSAP") described above, I am responsible for the implementation of 911 and Enhanced 911 ("E911") service in accordance with the rules and regulations of the Federal Communications Commission ("FCC").

I have been informed by i-wireless, LLC ("i-wireless") that, by Order dated _____, the FCC has designated i-wireless as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (47 U.S.C. § 214(e)(6)), for the limited purpose of providing Lifeline service in [State], among other states. I have further been informed that the FCC's designation of i-wireless as an ETC is subject to certain conditions, including a condition that i-wireless must obtain certification from each PSAP where it will offer Lifeline service that i-wireless customers will have 911 and E911 access immediately upon activation of service.

In connection with its request for certification by the PSAP, i-wireless has provided certain information. I have been informed by i-wireless that its wireless service operates on the Sprint Nextel ("Sprint") network. i-wireless has indicated that its Lifeline customers will have the same access to 911 and E911 service as the retail customers of Sprint. In addition, i-wireless has represented that its Lifeline handsets will comply with the FCC Order requiring that the handsets be capable of accessing 911 and E911 service regardless of activation status or availability of prepaid airtime.

Upon information and belief, in my capacity as PSAP Coordinator, I hereby certify that i-wireless has provided evidence that it is complying with the FCC requirement that it provide customers with access to basic and E911 service immediately upon activation of Lifeline service.

Dated: _____

Signature of PSAP Coordinator

Exhibit E

Projected Lifeline Subscriber Count

CONFIDENTIAL, NOT FOR PUBLIC INSPECTION